

1 Plaintiff Laura Ballegeer hereby complains against defendants Motion
2 Repossessors, Inc., Wells Fargo Bank, N.A., and Does 1-10, and alleges on
3 information and belief as follows:

4 **OPERATIVE FACTS**

5 1. Plaintiff's father Ronald Ballegeer purchased an automobile on credit,
6 which was financed by Wells Fargo Bank, N.A. Wells Fargo took a security
7 interest in the vehicle, which was collateral for the loan. Ronald Ballegeer passed
8 away, and plaintiff was an heir to his estate. Plaintiff contacted Wells Fargo to
9 inform it of the death of her father, and to state her intent to pay off the loan as her
10 father's heir, as soon as the probate was completed. Wells Fargo promised plaintiff
11 it would not repossess the vehicle until plaintiff could obtain the proper probate
12 papers naming her as legal heir. However, without informing plaintiff of its
13 intentions, Wells Fargo hired defendant Motion Repossessors to repossess
14 plaintiff's vehicle.

15 2. Defendants Motion Repossessors and the Doe defendants repossessed
16 plaintiff's vehicle by entering plaintiff's secured and gated residential apartment
17 complex, without permission. Accordingly, defendants breached the peace in the
18 repossession of plaintiff's vehicle, in violation of Commercial Code § 9609 and the
19 Collateral Recovery Act, Bus. & Prof. Code § 7508.2(d).

20 3. Defendants Motion Repossessors and the Doe defendants also seized
21 plaintiff's personal possessions inside the vehicle. Plaintiff went to Motion
22 Repossessors to get her personal possessions. Before being permitted to inspect and
23 verify her personal possessions, defendants insisted that plaintiff to sign a written
24 waiver of any legal claims she had against Motion Repossessors and the lienholder,
25 Wells Fargo. Plaintiff initially refused, but was forced to sign when defendants
26 continued to refuse her access to her possessions. Such waivers are illegal and
27 unenforceable under the Rosenthal Fair Debt Collection Practices Act.

28 4. Motion Repossessors and the Doe defendants would not permit

1 plaintiff to look at her possessions at their premises. Motion Repossessor's security
2 guard took plaintiff to the gate, dumped plaintiff's possessions in the street, and
3 forced plaintiff to go through them there to humiliate her, stating that she was
4 trespassing and would be arrested.

5 5. Plaintiff called Wells Fargo and requested to reinstate her contract, as
6 was her right under the Rees-Levering Act. Wells Fargo falsely told plaintiff orally
7 that she could not reinstate her contract, while deceptively sending her a
8 contradictory written notice, stating that she could reinstate. With assistance of
9 counsel, plaintiff ultimately reinstated, but was forced to pay Wells Fargo for
10 Motion Repossessors' repossession fees.

11 **JURISDICTION AND VENUE**

12 6. The court has original jurisdiction over this matter pursuant to 15
13 U.S.C. § 1692k(d). The court has supplemental jurisdiction over the state law
14 claims pursuant to 28 U.S.C. § 1367.

15 7. Venue is proper in the Central District of California because a
16 substantial part of the events or omissions giving rise to the claim occurred in this
17 district, and defendants are subject to the court's personal jurisdiction in this
18 district.

19 **PARTIES**

20 8. Plaintiff is a natural person over the age of 18 years and is a resident of
21 the state of California, County of Los Angeles.

22 9. Defendant Motion Repossessors, Inc. is a California corporation.

23 10. Defendant Wells Fargo Bank, N.A. is a national bank doing business
24 in California.

25 11. Defendants Does 1 through 10 are persons or entities whose true
26 names and capacities are presently unknown to plaintiff, and who therefore are sued
27 by such fictitious names. Plaintiff is informed and believes and thereon alleges
28 that each of the fictitiously named defendants perpetrated some or all of the

1 wrongful acts alleged herein, is responsible in some manner for the matters alleged
 2 herein, and is jointly and severally liable to plaintiff. Plaintiff will seek leave of
 3 court to amend this complaint to state the true names and capacities of such
 4 fictitiously named defendants when ascertained.

5 12. At all times mentioned herein, each defendant was the agent or
 6 employee of each of the other defendants and was acting within the course and
 7 scope of such agency or employment. The defendants are jointly and severally
 8 liable to plaintiff.

9 **FIRST CAUSE OF ACTION**
 10 **(Against Defendants Motion Repossessors and the Doe Defendants for**
Violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.).

11 13. Plaintiff realleges and incorporates herein by reference the allegations
 12 of all paragraphs above.

13 14. Plaintiff is a “consumer” who allegedly owed a “debt”, and defendants
 14 are “debt collectors”, as those terms are defined at 15 U.S.C. § 1692a. Defendants
 15 use instrumentalities of interstate commerce or the mails in a business the principal
 16 purpose of which is the enforcement of security interests.

17 15. Defendants violated 15 U.S.C. § 1692f(6) by taking nonjudicial action
 18 to effect dispossession or disablement of property when (1) there was no present
 19 right to possession of the property claimed as collateral through an enforceable
 20 security interest; and/or (2) the property was exempt by law from such
 21 dispossession or disablement.

22 16. Defendants had no present right to repossess plaintiff’s vehicle from a
 23 secured area without permission, but did so in violation of Commercial Code §
 24 9609 and the Collateral Recovery Act, Bus. & Prof. Code § 7508.2(d).

25 17. Plaintiff is entitled to any actual damages sustained by her as a result
 26 of defendants’ conduct, in an amount according to proof, pursuant to 15 U.S.C. §
 27 1692k.

28 18. Plaintiff is entitled to statutory damages of \$1,000 against each

1 defendant, pursuant to 15 U.S.C. § 1692k. Defendants have frequently and
2 persistently failed to comply with the FDCPA, and have violated the FDCPA
3 intentionally. The nature of defendants' violations justifies the maximum statutory
4 damages award available.

5 19. Plaintiff is entitled to the costs of the action, together with a reasonable
6 attorneys fee, pursuant to 15 U.S.C. § 1692k.

7 WHEREFORE, plaintiff prays for relief as set forth below.

8 **SECOND CAUSE OF ACTION**
9 **(Against all Defendants for Violations of the Rosenthal Fair Debt Collection**
10 **Practices Act, Cal. Civil Code § 1788 et seq.)**

11 20. Plaintiff realleges and incorporates herein by reference the allegations
12 of all paragraphs above.

13 21. The California Legislature has found that "unfair or deceptive debt
14 collection practices undermine the public confidence which is essential to the
15 continued functioning of the banking and credit system and sound extensions of
16 credit to consumers." Cal. Civ. Code § 1788.1(a)(2). It thus enacted the Rosenthal
17 Fair Debt Collection Practices Act, Cal. Civ. Code §§ 1788, et seq. (the "Rosenthal
18 Act"), to ensure the integrity of our banking and credit industry. Id. § 1788.1(b).

19 22. Plaintiff is a "debtor" within the meaning of Civil Code § 1788.2(h) in
20 that she is a natural person from whom defendants sought to collect a "consumer
21 debt" alleged to be due and owing by reason of a consumer credit transaction.
22 "Debt" is defined under the Rosenthal Act to mean "money, property or their
23 equivalent which is due or owing or alleged to be due or owing from a natural
24 person to another person." Civil Code § 1788.2(d).

25 23. The defendants at all times relevant herein were "debt collectors"
26 within the meaning of Civil Code § 1788.2(c), in that they regularly and in the
27 ordinary course of business, on behalf of themselves or others, engage in acts and
28 practices in connection with the collection of money or property which is due or
alleged be due or owing by reason of a consumer credit transaction.

1 24. Defendants Motion Repossessors and the Doe Defendants violated
2 Civil Code § 1788.10(a) by using criminal means to cause harm to the property of
3 plaintiff. Defendants Motion Repossessors and the Doe Defendants (1) violated
4 Bus. & Prof. Code § 7502.1(a) and committed a misdemeanor, by violating Bus. &
5 Prof. Code § 7508.2(d).

6 25. Defendants Motion Repossessors and the Doe Defendants violated
7 Civil Code § 1788.10(f) and Civil Code § 1788.17 by making false threats of arrest
8 and charges of trespass, when they had no intent and no right to make such charges.
9 Defendant Wells Fargo is vicariously liable for this violation.

10 26. Defendants Motion Repossessors and the Doe Defendants violated
11 Civil Code § 1788.33 by forcing plaintiff to sign a waiver of her rights under the
12 Rosenthal Act. Defendant Wells Fargo is vicariously liable for this violation.

13 27. Defendants violated Civil Code § 1788.17, incorporating by reference
14 15 U.S.C. § 1692d, by engaging in conduct the natural consequence of which was
15 to harass, oppress, or abuse plaintiff in connection with the collection of an alleged
16 debt.

17 28. Defendants violated Civil Code § 1788.17, incorporating by reference
18 15 U.S.C. § 1692e, by using false, deceptive, or misleading representations or
19 means in connection with the collection of a debt.

20 29. Defendants Motion Repossessors and the Doe Defendants violated
21 Civil Code § 1788.17, incorporating by reference 15 U.S.C. § 1692f, by using
22 unfair or unconscionable means to collect or attempt to collect an alleged debt.

23 30. As a proximate result of defendants' violations of the Rosenthal Act,
24 plaintiff has been damaged in amounts which are subject to proof. Plaintiff is
25 entitled to recover her actual damages pursuant to Civil Code § 1788.17,
26 incorporating by reference 15 U.S.C. § 1692k(a)(1), or in the alternative, Civil
27 Code § 1788.30(a).

28 31. Defendants' violations of the Rosenthal Act were willful and knowing.

1 Plaintiff is entitled to recover statutory damages of \$1,000 per defendant pursuant
2 to Civil Code § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(2)(A),
3 and Civil Code § 1788.30(b).

4 32. Plaintiff is entitled to recover her attorneys fees and costs pursuant to
5 Civil Code § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(3), or in the
6 alternative, Civil Code § 1788.30(c).

7 WHEREFORE, plaintiff prays for relief as set forth below

8 **THIRD CAUSE OF ACTION**
9 **(Against All Defendants For Conversion)**

10 33. Plaintiff realleges and incorporates herein by reference the allegations
11 of all paragraphs above.

12 34. Plaintiff was entitled to immediate possession of her vehicle when it
13 was repossessed by defendants. Defendants were not entitled to breach of the peace
14 in order to repossess the vehicle. Defendant Wells Fargo had promised not to
15 repossess the vehicle.

16 35. Defendants wrongfully deprived plaintiff of possession of her vehicle
17 by repossessing it without any present right to do so.

18 36. Plaintiff has suffered and is entitled to recover damages for
19 defendants' conversion.

20 37. Defendants acted with malice, oppression, and/or fraud towards
21 plaintiff within the meaning of Civil Code § 3294, thereby entitling her to an award
22 of punitive damages. Defendants' corporate officers, directors, or managing agents
23 are personally guilty of oppression, fraud or malice, had advance knowledge of the
24 unfitness of the employees who acted towards plaintiff with malice, oppression, or
25 fraud, employed such employees with conscious disregard for the rights or safety of
26 others, and/or themselves authorized or ratified the wrongful conduct or knowingly
27 accepted and retained the benefits of the wrongdoing.

28 WHEREFORE, plaintiff prays for relief as set forth below.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for the following relief:

1. For actual damages;
2. For statutory damages;
3. For punitive damages;
4. For pre-judgment interest to the extent permitted by law;
5. For an award of attorneys' fees, costs and expenses incurred in the investigation, filing and prosecution of this action; and
6. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury under the United States and California constitutions.

Dated: October 1, 2015

Respectfully Submitted,
TRUEBLOOD LAW FIRM

By: /s/
Alexander B. Trueblood

Attorneys for Plaintiff
LAURA BALLEGEER